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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,327	11/07/2001	Harith A. Razaa	25974-1	3025
24256	7590	02/25/2004	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202				CORBIN, ARTHUR L
ART UNIT		PAPER NUMBER		
1761				

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/040,327	R A Z A A
	Examiner	Group Art Unit
	ARTHUR L. CORBIN	1761

*kh*

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- Responsive to communication(s) filed on \_\_\_\_\_.
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- Claim(s) 1 - 3 1 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) \_\_\_\_\_ is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) 1 - 3 1 are subject to restriction or election requirement

#### Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All  Some\*  None of the:
- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

#### Attachment(s)

- |  |   |
|--|---|
| <input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ | <input type="checkbox"/> Interview Summary, PTO-413                     |
| <input type="checkbox"/> Notice of Reference(s) Cited, PTO-892                             | <input type="checkbox"/> Notice of Informal Patent Application, PTO-152 |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948           | <input type="checkbox"/> Other _____                                    |

#### Office Action Summary

***Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-24, drawn to a process for preparing a food product, classified in class 426, subclass 302.
  - II. Claims 25-31, drawn to a food product, classified in class 426-subclass 92.
2. The inventions are distinct, each from the other because:
3. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process, e.g. a process wherein the food product is coated by dipping or spraying without a prior vacuum tumbling step.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

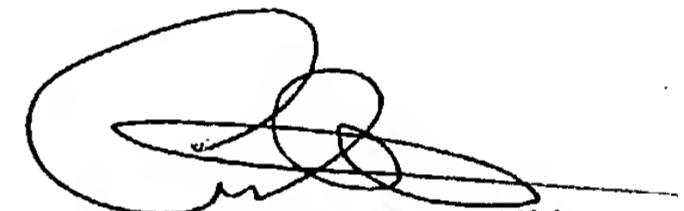
Art Unit: 1761

6. A telephone call was made to Mr. White on February 11, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Tuesday-Friday from 10:30 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

A. Corbin/af  
February 12, 2004

  
ARTHUR L. CORBIN  
PRIMARY EXAMINER  
2-19-04